

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

RUFUS L. SPEARMAN,

Plaintiff,

Case No. 1:18-cv-463

v.

STATE OF MICHIGAN, et al.,

HON. JANET T. NEFF

Defendants.

OPINION AND ORDER

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983 on July 5, 2017 and transferred to this Court on April 25, 2018 (ECF No. 37). Following screening in May 2018, Defendants Leach and Finco filed a motion for summary judgment in December 2018. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation (R&R), recommending that Defendants' motion be granted, Plaintiff's claims against the unidentified parties in his Amended Complaint be dismissed without prejudice for failure to timely effect service, and this matter terminated. The matter is presently before the Court on Plaintiff's objections to the Report and Recommendation, to which Defendants filed a response. Plaintiff also moved for an extension of time to file a reply to Defendants' response, but there is no provision in the rules for filing a reply. *See* W.D. Mich. LCivR 72.3(b). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. The Court denies the motion, denies the objections, and issues this Opinion and Order.

The Magistrate Judge thoroughly considered the record in this case, including Plaintiff's correspondence and testimony, and concluded that Defendants Leach and Finco are entitled to summary judgment as to Plaintiff's First Amendment, RLUIPA and equal protection claims against them. Plaintiff delineates seven objections to the Magistrate Judge's recommendation that Defendants' motion be granted (Objs., ECF No. 62 at PageID.517-525). However, Plaintiff's objections merely reiterate the arguments he set before the Magistrate Judge and do not demonstrate any factual or legal error in the Magistrate Judge's analysis or conclusion. Plaintiff also objects to the Magistrate Judge's recommendation that the unidentified Defendants be dismissed (*id.* at PageID.525-528), but Plaintiff's objection does not address his failure to identify these individuals or seek an extension of time during which to effect service. Accordingly, this Court adopts the Magistrate Judge's Report and Recommendation as the Opinion of this Court.

Because this Opinion and Order resolves the last pending claims, a Judgment will be entered consistent with this Opinion and Order. *See* FED. R. CIV. P. 58. Because this action was filed *in forma pauperis*, this Court certifies, pursuant to 28 U.S.C. § 1915(a)(3), that an appeal of this decision would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007). Therefore:

IT IS HEREBY ORDERED that Plaintiff's Motion for Extension of Time to File Reply (ECF No. 67) is DENIED.

IT IS FURTHER ORDERED that the Objections (ECF No. 62) are DENIED and the Report and Recommendation of the Magistrate Judge (ECF No. 60) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Motion for Summary Judgment (ECF No. 47) is GRANTED.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith.

Dated: September 24, 2019

/s/ Janet T. Neff

JANET T. NEFF

United States District Judge